

Mail Stop Interference  
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Paper No. 150  
Filed: March 31, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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ROBERT W. ESMOND, JACK R. WANDS  
AND SUZANNE DE LA MONTE  
Junior Party  
(U.S. Patent Application 09/394,712),

v.

GARY LANDRETH, COLIN COMBS, JERRY SILVER,  
AND MICHAEL T. FITCH  
Senior Party  
(U.S. Patent 6,191,154).

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Patent Interference No. 105,601 (MPT)  
(Technology Center 1600)

Judgment – Preliminary Motions – Bd. R. 127

Before: FRED E. McKELVEY, *Senior Administrative Patent Judge* and SALLY  
GARDNER LANE and MICHAEL P. TIERNEY, *Administrative Patent Judges*.

TIERNEY, *Administrative Patent Judge*.

The Board has entered a Decision on Motions in this interference.  
(Paper 149). The Decision grants Landreth Substantive Motion 2 for  
judgment based on lack of written description. Unpatentability of all a  
party's involved claims for lack of written description is a threshold issue

1 that deprives a party of standing in the interference. 37 C.F.R. § 41.201.

2 Accordingly, judgment is entered against junior party Esmond.

3 It is:

4 **Ordered** that judgment be entered against all of junior party

5 Esmond's involved claims, claims 23-24, 28-29, 31 and 33.

6 **Further Ordered** that claims 23-24, 28-29, 31 and 33 of Esmond's

7 involved U.S. Patent Application 09/394,712 be FINALLY REFUSED,

8 35 § U.S.C. 135(a).

9 **Further Ordered** that a copy of this judgment be entered in the

10 administrative records of the involved Esmond U.S. Patent Application

11 09/394,712 and Landreth U.S. Patent 6,191,154.

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